



# **COMMONWEALTH of VIRGINIA**

## **DEPARTMENT OF ENVIRONMENTAL QUALITY**

VALLEY REGIONAL OFFICE

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David K. Paylor  
Director

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### **STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION - ORDER BY CONSENT ISSUED TO ZION CROSSROADS RECYCLING PARK, LLC FOR VAN DER LINDE RECYCLING Registration No. 81621**

#### **SECTION A: Purpose**

This is a Consent Order issued under the authority of Va. Code §§ 10.1-1309 and -1316, between the State Air Pollution Control Board and Zion Crossroads Recycling Park, LLC, regarding van der Linde Recycling, for the purpose of resolving certain violations of the Virginia Air Pollution Control Law and the applicable regulations.

#### **SECTION B: Definitions**

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Board" means the State Air Pollution Control Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and -1301.
2. "CFR" means the Code of Federal Regulations, as incorporated into the Regulations.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.

4. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.
5. "Facility" means the Zion Crossroads Recycling Park, LLC, dba van der Linde Recycling, facility, located at 73 Hunters Branch Road in Fluvanna County, Virginia, operating for the purpose of recycling waste.
6. "ZCRP" or "van der Linde" means Zion Crossroads Recycling Park, LLC, a limited liability company authorized to do business in Virginia and its members, affiliates, partners, subsidiaries, and parents. ZCRP is a "person" within the meaning of Va. Code § 10.1-1300.
7. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 10.1-1309.
8. "Order" means this document, also known as a "Consent Order" or "Order by Consent," a type of Special Order under the Virginia Air Pollution Control Law.
9. "Permit" means a NSR permit to operate and construct a waste recycling center, which was issued under the Virginia Air Pollution Control Law and the Regulations to Zion Crossroads Recycling Park, LLC on June 19, 2009.
10. "Regulations" or "Regulations for the Control and Abatement of Air Pollution" mean 9 VAC 5 chapters 10 through 80.
11. "Va. Code" means the Code of Virginia (1950), as amended.
12. "VAC" means the Virginia Administrative Code.
13. "Virginia Air Pollution Control Law" means Chapter 13 (§ 10.1-1300 *et seq.*) of Title 10.1 of the Va. Code.
14. "VRO" means the Valley Regional Office of DEQ, located in Harrisonburg, Virginia

#### **SECTION C: Findings of Fact and Conclusions of Law**

1. Zion Crossroads Recycling Park, LLC owns and operates the Facility in the Fluvanna County, Virginia. The Facility recycles waste.
2. On March 6, 2009, Department staff conducted a Partial Compliance Evaluation of the Facility for compliance with the requirements of the Virginia Air Pollution Control Law and the Regulations. Based on the inspection and follow-up information, Department staff made the following observations:
  - a. A 70 ton per hour capacity horizontal waste grinder powered by a 593 hp Caterpillar diesel engine was installed and has been in operation at the facility since December,

2008. A permit application for the installation of this equipment was not received by DEQ staff, nor was a permit granted by DEQ for its installation or operation.

3. 9 VAC 5-80-1120(A) states "No owner or other person shall begin actual construction, reconstruction or modification of any stationary source without first obtaining from the board a permit to construct and operate or to modify and operate the source."
4. 9 VAC 5-80-1210 (D) states "Any owner who constructs or operates a new or modified source not in accordance with the terms and conditions of any permit to construct or operate, or any owner of a new or modified source subject to this article who commences construction or operation without receiving a permit hereunder, shall be subject to appropriate enforcement action including, but not limited to, any specified in this section."
5. 9 VAC 5-50-50 (A) states "Any owner of a new or modified source subject to the provisions of this chapter shall provide written notifications to the board of the following:
  1. The date of commencement of construction, reconstruction or modification of a new or modified source postmarked no later than 30 days after such date.
  2. The anticipated date of initial startup of a new or modified source postmarked not more than 60 days nor less than 30 days prior to such date.
  3. The actual date of initial startup of a new or modified source postmarked within 15 days after such date.
  4. The date of any performance test required by 9VAC5 Chapter 80 (9VAC5-80) and any other performance test the owner wishes the board to consider in determining compliance with a standard. Notification shall be postmarked not less than 30 days prior to such date.
  5. The date upon which demonstration of the continuous monitoring system performance begins in accordance with 9VAC5-50-40 C. Notification shall be postmarked not less than 30 days prior to such date.
  6. The anticipated date for conducting the opacity observations required by 9VAC5-50-20 G 1. The notification shall also include, if appropriate, a request for the board to provide a visible emissions reader during a performance test. The notification shall be postmarked not less than 30 days prior to such date.
6. On July 19, 2009, DEQ issued the Permit to ZCRP. The Permit included provisions for compliance with the Regulations which accounted for the construction and operation of the horizontal waste grinder powered by a diesel engine.
7. On August 4, 2009, based on the inspection and follow-up information, the Department issued Notice of Violation No. AVRO7100 to ZCRP for the violations described in paragraphs C(2) through C(5), above.
8. On September 2, 2009, Department staff met with representatives of ZCRP to discuss the violations, including any possible corrective actions to return the Facility to compliance.
9. Based on the results of the March 6, 2009 inspection and the September 2, 2009 meeting, the Board concludes that ZCRP has violated 9 VAC 5-80-1120(A), 9 VAC 5-80-1210 (D), and 9 VAC 5-50-50 (A) as described in paragraphs C(2) through C(5), above.

10. Based on the Permit issuance and compliance documentation submitted by ZCRP, DEQ staff have verified that the violations described in paragraphs C(2) through C(5), above, have been corrected.

#### **SECTION D: Agreement and Order**

Accordingly, by virtue of the authority granted it in Va. Code §§ 10.1-1309 and -1316, the Board orders Zion Crossroads Recycling Park, LLC, and Zion Crossroads Recycling Park, LLC, agrees to pay a civil charge of \$4,420.00 within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control  
Department of Environmental Quality  
Post Office Box 1104  
Richmond, Virginia 23218

ZCRP shall include its Federal Employer Identification Number (FEIN), 55-0915461, with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF).

#### **SECTION E: Administrative Provisions**

1. The Board may modify, rewrite, or amend this Order with the consent of ZCRP for good cause shown by ZCRP, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified in Section C of this Order. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.
3. For purposes of this Order and subsequent actions with respect to this Order only, ZCRP admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. ZCRP consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. ZCRP declares it has received fair and due process under the Administrative Process Act and the Virginia Air Pollution Control Law and it waives the right to any hearing or other

administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.

6. Failure by ZCRP to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. ZCRP shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. ZCRP shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. ZCRP shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
  - a. the reasons for the delay or noncompliance;
  - b. the projected duration of any such delay or noncompliance;
  - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
  - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the ZCRP intends to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and ZCRP. Nevertheless, ZCRP agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until:

- a. ZCRP petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
- b. the Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to ZCRP.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve ZCRP from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. Any plans, reports, schedules or specifications attached hereto or submitted by ZCRP and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
13. The undersigned representative of ZCRP certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind ZCRP to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of ZCRP.
14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.

15. By its signature below, ZCRP voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 26<sup>th</sup> day of January, 2010.

Amy Thatcher Owens

Amy Thatcher Owens, Regional Director  
Department of Environmental Quality

Zion Crossroads Recycling Park, LLC voluntarily agrees to the issuance of this Order.

Date: 1-22-2010 By: Peter van der Linde  
Peter van der Linde President  
Zion Crossroads Recycling Park, LLC

Commonwealth of Virginia

City/County of Louisa

The foregoing document was signed and acknowledged before me this 22<sup>nd</sup> day of January, 2010, by Peter van der Linde who is president of Zion Crossroads Recycling Park, LLC, on behalf of the company.

Robert R. Henry Jr.  
Notary Public

154570

Registration No.

My commission expires: Nov. 30, 2012

Notary seal:

